



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALVIN HINES, )  
 )  
 Defendant-Below, )  
 Appellant, )  
 )  
 v. ) No. 203, 2022  
 )  
 STATE OF DELAWARE, )  
 )  
 Plaintiff-Below, )  
 Appellee. )

ON APPEAL FROM THE SUPERIOR COURT  
OF THE STATE OF DELAWARE

**STATE'S ANSWERING BRIEF**

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Date: October 11, 2022

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## NATURE AND STAGE OF THE PROCEEDINGS

On February 17, 2020, a New Castle County Superior Court grand jury indicted Alvin Hines for Possession of a Weapon with a Removed, Obliterated or Altered Serial Number; Possession of a Firearm While Under the Influence; and Discharging a Firearm on a Street.<sup>1</sup> The State dismissed the count of Discharging a Firearm on a Street before trial.<sup>2</sup> After a two-day jury trial, Hines moved for judgment of acquittal on the charge of Possession of a Firearm with an Obliterated Serial Number.<sup>3</sup> The Superior Court denied the motion.<sup>4</sup> The jury found Hines guilty of both remaining charges.<sup>5</sup> On May 13, 2022, the Superior Court sentenced Hines to an aggregate 4 years of incarceration, suspended immediately for decreasing levels of supervision.<sup>6</sup> Hines appealed and filed an Opening Brief. This is the State's Answering Brief.

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<sup>1</sup> A1 at D.I. 7; "D.I." refers to docket item numbers on the Superior Court Criminal Docket in State v. Hines, I.D. No. 2001012822; A6-7.

<sup>2</sup> A4 at D.I. 24.

<sup>3</sup> A196.

<sup>4</sup> A206-07.

<sup>5</sup> A276 at D.I. 28.

<sup>6</sup> A283-84; D.I. 29.

## **SUMMARY OF THE ARGUMENTS**

I. Hines' argument is DENIED. Viewing the evidence in a light most favorable to the State, sufficient evidence supported finding Hines guilty of Possession of a Firearm with an Obliterated Serial Number beyond a reasonable doubt. Police found Hines standing in the vicinity of the reported location of shots fired while holding a nine-millimeter firearm by his side in his right hand. Investigators found nine-millimeter shell casings near Hines' location. Investigators further found the firearm had an evident obliteration of its serial number. One witness even testified that he could tell the firearm's serial number had been obliterated just by viewing and handling the weapon. Two witnesses testified the serial number was visible to one loading the firearm. Witnesses also testified that the recovered firearm was in the locked back position, suggesting that it had been recently fired. From the facts offered at trial, a reasonable jury could infer from the evidence that Hines knew the firearm had an obliterated serial number. Thus, the Superior Court did not err when it denied Hines' motion for acquittal on the charge of Possession of a Firearm with an Obliterated Serial Number.

## STATEMENT OF FACTS

At approximately 7:30 p.m. on January 21, 2020, five Wilmington Police Department officers responded to a ShotSpotter<sup>7</sup> notification that directed them to the 500 block of West 27th Street in Wilmington.<sup>8</sup> Patrolman Akquil Williams arrived at the scene first and canvassed the area.<sup>9</sup> He walked to the 2600 block of Zebley Place, which intersects the 500 block of West 27th Street.<sup>10</sup> He saw and approached an unknown heavy-set black man, later identified as Alvin Hines, who held a black firearm by his side in his right hand.<sup>11</sup> Patrolman Williams gave Hines multiple commands to drop the firearm, but Hines did not immediately comply.<sup>12</sup> By then, Patrolman Markees Gordon had also arrived at the scene and heard Patrolman Williams yelling at Hines to drop the gun.<sup>13</sup>

Within four minutes of receiving the ShotSpotter notification, Corporal Daniel Humphrey responded to the scene.<sup>14</sup> Corporal Humphrey saw Hines walking

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<sup>7</sup>ShotSpotter is a system the City of Wilmington uses to detect gun fire. The system notifies the Wilmington Police Department when shots are fired, and it locates on a map the location of the gunfire. A36.

<sup>8</sup> A35-36; A62; A84-85; A124-25.

<sup>9</sup> A36; A39.

<sup>10</sup> A39; A85.

<sup>11</sup> A40-41; A43; A46.

<sup>12</sup> A41-42; A68.

<sup>13</sup> A87-88.

<sup>14</sup> A62.

towards Patrolman Williams and heard Patrolman Williams give Hines commands to drop the gun.<sup>15</sup> Corporal Humphrey also gave Hines commands to drop the gun.<sup>16</sup>

Hines eventually dropped the weapon to the ground.<sup>17</sup> Then Patrolman Williams and Corporal Humphrey, with the assistance of Patrolman Gordon, took Hines into custody.<sup>18</sup> Patrolman Gordon drove Hines to the Wilmington Hospital.<sup>19</sup> There, Hines told a doctor that earlier he had been arguing with a female friend, he took PCP at 6:30 p.m., and he retrieved a gun.<sup>20</sup>

At the scene, investigators secured the nine-millimeter firearm, which had its slide locked back.<sup>21</sup> They also located and collected three spent nine-millimeter shell casings at the scene.<sup>22</sup> Detective Hugh Stephey later examined and test fired the nine-millimeter firearm collected from Hines to confirm it was operable.<sup>23</sup>

At trial, the State introduced into evidence the firearm recovered from Hines<sup>24</sup> and three photographs of the firearm taken from different angles.<sup>25</sup> Witnesses explained that a firearm's slide will lock back when the gun is empty of ammunition;

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<sup>15</sup> A65-66.

<sup>16</sup> A66-67.

<sup>17</sup> A42; A43.

<sup>18</sup> A69; A89-90.

<sup>19</sup> A89-90, A94.

<sup>20</sup> A95-96; A141-42.

<sup>21</sup> A70; A73; A76.

<sup>22</sup> A126; A160.

<sup>23</sup> A181-82.

<sup>24</sup> A168-69.

<sup>25</sup> 109-10; A111; A116-17. *See* B1-3.

this is indicative of the weapon having been fired.<sup>26</sup> Two witnesses pointed out that a nine-millimeter's serial number is located under the barrel (or muzzle) of the firearm.<sup>27</sup> Two officers also said that when loading a nine-millimeter, one can see the area where its serial number is located.<sup>28</sup>

Master Corporal Samuel Smith, Patrolman Gordon, and Detective Stephey noticed the obliterated or scratched off serial number on the firearm recovered from Hines.<sup>29</sup> Two of these witnesses described the obliteration as immediately evident or obvious to them.<sup>30</sup> Detective Stephey immediately could tell the serial number had been obliterated from the firearm simply by picking it up and looking at it.<sup>31</sup> Patrolman Gordon described the serial number as obliterated or scratched out;<sup>32</sup> Master Corporal Smith said it was "kind of scratched off;"<sup>33</sup> and Detective Stephey called it obliterated, removed with some sort of tool, and tampered with or altered.<sup>34</sup> Detective Stephey commented, "[a]s we can see, the polymer plastic is all chewed up, so this was deliberately done."<sup>35</sup>

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<sup>26</sup> A75-76; A163-64.

<sup>27</sup> A109; A164-65; A183-84.

<sup>28</sup> A110-11; A185-86.

<sup>29</sup> A110; A116-17; A120; A165; A184; A184-86.

<sup>30</sup> A110; A116-17; A120; A184.

<sup>31</sup> A191.

<sup>32</sup> A110-111.

<sup>33</sup> A165.

<sup>34</sup> A184-85; A186; A187.

<sup>35</sup> A186.



## ARGUMENT

### I. SUFFICIENT EVIDENCE SUPPORTED HINES' CONVICTION FOR POSSESSION OF A FIREARM WITH AN OBLITERATED SERIAL NUMBER

#### Question Presented

Whether any rational trier of fact could conclude Hines had knowledge of the obliterated serial number on the firearm found in his possession, presumptively just fired by him, and bearing an obvious obliteration to anyone who handled the gun.

#### Standard and Scope of Review

This Court reviews a denial of a motion for judgment of acquittal *de novo* to determine whether a rational trier of fact, viewing the evidence in the light most favorable to the State, could have found the essential elements beyond a reasonable doubt.<sup>36</sup> In making this inquiry, the Court does not distinguish between direct and circumstantial evidence.<sup>37</sup> Thus, the State may prove an offense through direct or circumstantial evidence.<sup>38</sup>

#### Merits of the Argument

Hines argues that no record evidence shows how long he possessed the firearm, so a jury could not fairly infer he knew the serial number on the gun had

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<sup>36</sup> *Howell v. State*, 268 A.3d 754, 775 (Del. 2021); *Cushner v. State*, 214 A.3d 443, 446 (Del. 2019).

<sup>37</sup> *Robinson v. State*, 953 A.2d 169, 173 (Del. 2008).

<sup>38</sup> *Vincent v. State*, 996 A.2d 777, 779 (Del. 2010).

been defaced.<sup>39</sup> Hines also argues the obliterated serial number on the firearm could be seen only at a certain angle—from below—and no evidence shows Hines ever looked at the gun at that angle.<sup>40</sup> In addition, Hines argues the Superior Court denied his motion for judgment of acquittal based on speculation that he possessed the firearm “more than just for that moment that he has seen right beforehand”<sup>41</sup> and not based on evidence (other than a likely discharge of the weapon).<sup>42</sup> Finally, Hines argues no one could fairly infer from the evidence that the required knowledge element of the crime could be satisfied.<sup>43</sup> Hines is wrong. A rational jury could find Hines guilty beyond a reasonable doubt based on the obviousness of the obliteration, his possession of the weapon before his arrest, and his presumptive use of the weapon.

To support a conviction for Possession of a Weapon with an Obliterated Serial Number, the State must establish that: (1) Hines knowingly possessed a firearm on January 21, 2020; (2) the serial number on the firearm was removed, altered, or obliterated in a manner that has disguised or concealed the identity or origin of the firearm; and (3) Hines knew the serial number on the firearm had been removed,

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<sup>39</sup> Corr. Opening Br. at 9-10.

<sup>40</sup> Corr. Opening Br. at 9.

<sup>41</sup> A206.

<sup>42</sup> Corr. Opening Br. at 10.

<sup>43</sup> Corr. Opening Br. at 10.

altered, or obliterated.<sup>44</sup> Hines does not dispute that the State met its burden of proof regarding the first two elements of the crime.

Viewing the evidence in the light most favorable to the State, a rational factfinder could—and did—find Hines guilty of Possession of a Weapon with an Obliterated Serial Number based on the evidence. It is reasonable to infer that Hines fired the weapon just before the police found him. ShotSpotter indicated two shots had been fired at the 500 block of West 27th Street at 7:30 p.m.<sup>45</sup> Within four minutes, police arrived at 2600 block of Zebley Place, one block from the ShotSpotter report.<sup>46</sup> They found Hines standing outside holding a firearm in his right hand.<sup>47</sup> None of the officers saw anyone else outside at the scene. The firearm recovered from Hines was a nine-millimeter in the locked back position, suggesting all ammunition previously loaded into the weapon had been discharged.<sup>48</sup> The police also found three nine-millimeter casings on the ground at the scene.<sup>49</sup>

It is also reasonable to infer that Hines loaded the firearm and, in so doing, saw the area under the barrel of the gun where the serial number is located. Officers testified that when loading a nine-millimeter firearm, the serial number under the

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<sup>44</sup> 11 *Del. C.* § 1459(a); *see also, e.g., State v. Newman*, 2018 WL 4692446, at \*4-5 (Del. Super. Ct. Sept. 26, 2018).

<sup>45</sup> A35-36; A50-51.

<sup>46</sup> A39.

<sup>47</sup> A39; A40-41; A43; A46; A62; A65-66.

<sup>48</sup> A76; A163-64.

<sup>49</sup> A126; A157-59; A164.

firearm's barrel is readily visible.<sup>50</sup> And, Detective Stephey testified that he immediately noticed the obliterated serial number on the recovered firearm just by picking up the gun and looking at it.<sup>51</sup>

A reasonable jury could also infer Hines handled the firearm before the police found him holding it and that, in handling the weapon, he saw the clearly obliterated serial number. Patrolman Gordon said the obliteration was immediately evident to him.<sup>52</sup> Detective Stephey said the serial number had quite clearly been obliterated.<sup>53</sup> Detective Stephey also said he could determine the obliteration just by picking up and handling the weapon.<sup>54</sup> Thus, the evidence demonstrated anyone who viewed or handled the firearm could discern the conspicuous obliteration of the serial number. A reasonable jury could infer that Hines both viewed and handled the firearm and thus knew it had an obliterated serial number.

Hines mistakenly believes that without direct evidence showing he possessed the firearm in question for some length of time, a jury cannot reasonably conclude he knew it had an obliterated serial number. He is mistaken. Delaware precedent does not require the State to prove possession of a firearm for any specific period of time to meet the knowledge element for 11 *Del. C.* § 1459(a). And, evidence of

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<sup>50</sup> A111; A184-86.

<sup>51</sup> A191.

<sup>52</sup> A110; A117; A120.

<sup>53</sup> A184-85.

<sup>54</sup> A191.

possession of the firearm is not the only way to prove the knowledge element of § 1459(a). A jury may reasonably infer this knowledge based on direct and circumstantial evidence that the obliteration on the firearm was visible to anyone who handled the firearm.

This Court, in *Howell v. State*,<sup>55</sup> confirmed that knowledge of a serial number's obliteration does not have to originate from length of possession. In *Howell*, this Court considered whether the defendant constructively possessed a nine-millimeter firearm and knew the firearm had an obliterated serial number.<sup>56</sup> The weapon was recovered from a house rented by the defendant.<sup>57</sup> The area on the firearm where the serial number had been removed was visibly discolored and clearly altered.<sup>58</sup> In fact, the lower court described the obliteration as “visible to the naked eye.”<sup>59</sup> The police also found nine-millimeter ammunition in a backpack owned by Howell.<sup>60</sup> No other firearm was found at Howell's residence.<sup>61</sup> A co-

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<sup>55</sup> 268 A.3d 754. Although this Court reversed on other grounds, it addressed the sufficiency-of-the-evidence claim because of double jeopardy considerations. *Id.* at 775 n.77. See generally *United States v. Scott*, 437 U.S. 82, 90-91 (1978) (“The successful appeal of a judgment of conviction, on any ground other than insufficiency of the evidence to support the verdict, poses no bar to further prosecution on the same charge.”).

<sup>56</sup> 268 A.3d at 776.

<sup>57</sup> *Id.* at 757, 775.

<sup>58</sup> *Id.* at 757.

<sup>59</sup> *Id.* at 776.

<sup>60</sup> *Id.* at 757, 775.

<sup>61</sup> *Id.* at 776.

defendant testified that Howell had offered to sell him a “dirty” weapon, which referred to a firearm without a serial number, but failed to identify a specific date for the sales offer.<sup>62</sup> Although Howell’s brother admitted he had purchased the firearm in question, this Court nevertheless found all of the evidence sufficiently supported the jury’s conclusion that Howell constructively possessed the firearm and was aware of its removed or obliterated serial number.<sup>63</sup> While the circumstances surrounding the recovery of the gun may reveal the defendant’s knowledge of its condition, evidence of the duration of possession is not required to establish the defendant’s knowledge of an obliterated serial number under § 1459(a).

Similarly, in *State v. Newman*,<sup>64</sup> the Superior Court specifically addressed an insufficiency of the evidence argument regarding the knowledge element for § 1459(a). In *Newman*, a detective testified that anyone who handled the firearm at issue would easily notice the filed-off serial number on its side because of several visible tool marks.<sup>65</sup> Photographs of the firearm confirmed these visible tool marks.<sup>66</sup> The firearm in the defendant’s house was easily accessible.<sup>67</sup> The defendant's DNA appeared in several places on the firearm, which permitted a

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> 2018 WL 4692446.

<sup>65</sup> 2018 WL 4692446, at \*1.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at \*5.

reasonable inference that the defendant had more than incidental contact with the firearm.<sup>68</sup> In addition, the gun appeared to have been recently hidden on an air duct,<sup>69</sup> which supported a state of mind element of the offense. Based on these facts, the court held that sufficient evidence existed to meet the knowledge requirement of § 1459(a).<sup>70</sup>

Here, a rational factfinder could—and did—find Hines guilty of Possession of a Weapon with an Obliterated Serial Number. As in *Newman*, evidence revealed that a person in Hines' position would notice the obliterated serial number on the firearm just by picking it up and looking at it.<sup>71</sup> State's Exhibits 16, 17, and 18 clearly show the obliteration of the firearm's serial number.<sup>72</sup> And, Hines was observed by witnesses holding the firearm before his arrest.<sup>73</sup> Furthermore, Hines was arrested near the area indicated by the ShotSpotter notice, the firearm in his hand was a nine-millimeter, three nine-millimeter casings were found in the same area, and he admitted to obtaining the gun an hour before the shots fired notice.<sup>74</sup> Viewing this evidence in the light most favorable to the State, a jury could rationally conclude

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> A191.

<sup>72</sup> A11-11; A116-17; A120; A184-87; *See* B1-3.

<sup>73</sup> A40-41; A66-67.

<sup>74</sup> A35-36; A40; A69; A89-90; A95-96; A157-59; A163-64.

that Hines handled the firearm and knew—based on viewing the weapon and handling it—that the serial number had been obliterated.

Hines also argues the obliteration of the firearm’s serial number could be seen only at a certain angle that showed the bottom of the firearm, and no evidence showed he had ever looked at the firearm at that particular angle.<sup>75</sup> Not so. Evidence established the obliterated serial number was evident to one who handled the firearm. Detective Stephey testified that, after examining and test firing the firearm collected from Hines, it was obvious to him the serial number had been obliterated.<sup>76</sup> Patrolman Gordon testified that when holding and loading a nine-millimeter, the area where the serial number is underneath the barrel is visibly apparent.<sup>77</sup> The obviousness of the obliteration supports an inference by a jury that Hines did, in fact, know that the serial number had been scratched off or obliterated.

Hines argues that the Superior Court speculated that he possessed the firearm for a longer period of time than from the moment Hines was on the street with the firearm.<sup>78</sup> But, because the law requires no minimum time of possession, any speculation by the lower court does not create error. And, of course, this is a question of fact the law leaves to the jury.

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<sup>75</sup> Corr. Opening Br. at 9.

<sup>76</sup> A184.

<sup>77</sup> A111.

<sup>78</sup> Corr. Opening Br. at 10.



Here, based on all of the evidence presented, a rational jury could infer that Hines handled the firearm and saw its obviously obliterated serial number. Courts in other jurisdictions have upheld similar findings of implied knowledge when evidence shows that an obliterated serial number on a gun is clearly apparent, even without additional evidence that a defendant had extended possession of the weapon.<sup>79</sup>

For example, in *United States v. Green*,<sup>80</sup> the defendant moved for a judgment of acquittal on the charge of possession of a weapon without a serial number. He argued insufficient evidence prohibited an inference that he knew the serial number had been obliterated because the obliterated serial number plate was located under the gun's barrel and not readily visible.<sup>81</sup> As here, the evidence consisted of

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<sup>79</sup> *United States v. Frett*, 492 F. Supp.3d 446, 453 (D.V.I. 2020) (concluding that jury can infer knowledge of an obliterated serial number when the firearm has no legible serial number at all and when it bears obvious physical evidence of a serial number's intentional obliteration, such as scratching, gouging, or other conspicuous markings or disfigurement); *United States v. Moore*, 54 F.3d 92, 101 (2d Cir. 1995) ("A rational juror could also conclude that when Moore distributed guns to members of the organization he had inspected them and was aware that they lacked serial numbers."); *United States v. Cobbs*, 233 F. App'x 524, 536 (6th Cir. 2007) ("The evidence also established that the scraped-down serial number was located on the back of the handle of the firearm, in the plain view of anyone who handled it."); *United States v. Nesmith*, 29 Fed. App'x. 681, 685 (2d Cir. 2002) (possession by defendant and testimony that a person could not handle gun without noticing the obliteration constituted sufficient basis for finding of knowledge);

<sup>80</sup> 2021 WL 5238190 (M.D. Pa. Nov. 10, 2021), *aff'd*, 2022 WL 4244275 (3d Cir. Sept. 15, 2022).

<sup>81</sup> *Id.* at \*7.

testimony from trained firearm experts regarding their forensic investigation of the firearm, the firearm itself, and photographs of the firearm.<sup>82</sup> No evidence showed how long the defendant had possessed the gun—just that he pulled it from his waistband during a fight and pointed it at a victim.<sup>83</sup> The Government pointed out that the frame of the firearm was black, whereas the serial plate was silver.<sup>84</sup> In addition, the appearance of the silver plate was clearly visible, as were gouges and scratches on the firearm that extended to its black frame.<sup>85</sup> Based on this evidence, the district court denied the defendant's motion for judgment of acquittal, and the jury found the defendant guilty on the charge.<sup>86</sup>

The Third Circuit Court of Appeals upheld the decision:

An ATF agent testified that the serial number of the gun in question, which was conspicuously located on a silver plate on a black gun, was “directly underneath the barrel,” and that ATF agent and a state police officer both testified that the scratches and gouges on the plate were easily visible. On this record, given the links between Green and the gun, a rational jury easily could have found the essential element of knowledge was satisfied beyond a reasonable doubt.<sup>87</sup>

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<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at \*2.

<sup>84</sup> *Id.* at \*7.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> 2022 WL 4244275, at \*3 (citing *United States v. Caraballo-Rodriguez*, 726 F.3d 418, 424–25 (3d Cir. 2013)).

Likewise, in *United States v. Thornton*,<sup>88</sup> the Seventh Circuit held that knowledge could be established based on factors other than length of possession. The evidence placed Thornton in the SUV where the gun was found and tied Thornton to the gun itself based on his fingerprints on its magazine.<sup>89</sup> From these facts, the Seventh Circuit found that a rational jury could conclude Thornton knowingly possessed the gun, and knew the gun's serial number had been obliterated, “given that one need only look at the gun to attain that knowledge.”<sup>90</sup>

Hines posits that guidance may be obtained from other jurisdictions, but *Howell* and *Newman* sufficiently clarify the proof necessary to establish knowledge under 11 *Del. C.* § 1459(a). Delaware law does not require evidence that a defendant have physical possession of a firearm for any specific period of time. And, this Court need not rely on case law from other jurisdictions, especially when their holdings contradict established Delaware law.<sup>91</sup> Under *Howell*, a jury may reasonably conclude the knowledge element of 11 *Del. C.* § 1459(a) based on constructive possession of a firearm with an obviously obliterated serial number coupled with

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<sup>88</sup> 463 F.3d 693, 699 (7th Cir. 2006).

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*; see also, e.g., *United States v. Tylkowski*, 9 F.3d 1255, 1260–61 (7th Cir. 1993) (finding that circumstantial evidence of defendant’s control over a box was sufficient to support the reasonable inference that he knew it contained illegally converted machine guns with obliterated serial numbers).

<sup>91</sup> *Tumulty v. Schreppler*, 132 A.3d 4, 32 (Del. Ch. 2015).

circumstantial evidence a defendant handled the firearm. Similarly, a jury could conclude Hines knew about the obliteration because he actually possessed the firearm; the obliteration was obviously visible to anyone who handled the firearm; and a jury could conclude Hines handled the gun before the police found him because they found him near the location of the ShotSpotter notice along with spent casings from a nine-millimeter. A rational jury, viewing the evidence in the light most favorable to the State, could find that Hines knew about the obliterated serial number of the firearm.

## CONCLUSION

Hines was holding the firearm before his arrest. He presumptively had handled the firearm before his arrest and presumptively had fired it. Evidence showed that anyone who handled the firearm could see the obvious obliteration. Delaware law does not require a defendant to possess for any specific time period a firearm with an obliterated serial number before knowledge of the obliteration can be inferred. A rational jury could conclude that Hines knew about the obliterated serial number based on these facts and could find Hines guilty beyond a reasonable doubt for the crime charged. Thus, the Superior Court did not err. For the foregoing reasons, the judgment of the Superior Court should be affirmed.

*/s/Julie M. Donoghue*

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**CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENT  
AND TYPE-VOLUME LIMITATION**

1. This brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word.
2. This brief complies with the type-volume limitation of Rule 14(d)(i) because it contains **3,733** words, which were counted by Microsoft Word.

Dated: October 11, 2022

/s/ Julie M. Donoghue  
Julie M. Donoghue (#3724)  
Deputy Attorney General